



ENVIRONMENTAL LAW & POLICY CENTER

October 20, 2021

U.S. District Court Judge William M. Conley
Western District of Wisconsin
120 North Henry Street
Madison, WI 53703

Re: Case No. 21-cv-00096-wmc & Case No. 21-cv-00306-wmc (cons.)
National Wildlife Refuge Association, et al. v. Rural Utilities Service, et al.
Update Regarding State Court Litigation on Cardinal-Hickory Creek Transmission Line

Dear Judge Conley:

Plaintiffs National Wildlife Refuge Association, Driftless Area Land Conservancy, Wisconsin Wildlife Federation and Defenders of Wildlife are writing to inform the Court, in advance of the October 22, 2021 oral argument on Plaintiffs' Motion for Preliminary Injunction, of recent developments in state court litigation challenging the proposed Cardinal-Hickory Creek high-voltage transmission line, which is at issue in this case.

Plaintiffs Driftless Area Land Conservancy and Wisconsin Wildlife Federation are also challenging the Public Service Commission of Wisconsin's approvals for the transmission line under state law in Dane County Circuit Court, Case No. 19-cv-3418, *County of Dane, et al. v. Public Service Commission of Wisconsin*. Plaintiffs moved for a temporary injunction in that case, and the Circuit Court Judge Jacob Frost held a hearing on October 18, 2021 in which the Court orally ruled on the Motion as follows:

1. Granted Petitioners Driftless Area Land Conservancy and Wisconsin Wildlife Federation's Emergency Motion for Temporary Injunction, which was also supported by Petitioners Dane County, Iowa County, Village of Montfort, Town of Wyoming, among others.
2. Specifically found that Petitioners met the standards for a temporary injunction by demonstrating a likelihood of success on the merits of their claims, showing irreparable injury, that there is no adequate remedy at law, and that the public interest weighs in Petitioners' favor.
3. Stated that "my hands are tied" by the specific terms of Wis. Stat. § 196.43(2), and required that the local conservation group Petitioners provide two sureties in the amount of \$32,000,000. Judge Frost interpreted this state statute as tying his hands as to the bond amount and affording him no discretion to set a lower amount than what the Transmission Companies claimed their potential damages could be.

Sincerely,

/s/ Howard A. Learner

Howard A. Learner

*One of the attorneys for Plaintiffs National Wildlife
Refuge Association, Driftless Area Land Conservancy,
Wisconsin Wildlife Federation, Defenders of Wildlife*